

### **REMARKS**

The Office Action dated May 27, 2004 has been received and carefully studied.

The Examiner maintains the rejection of claim 15 under 35 U.S.C. §102(b) as being anticipated by Kish, U.S. Patent No. 5,882,405. The Examiner states that Kish discloses a method of forming an insulated stapled including the process steps of providing a staple body via wire 12 adapted to be formed into a bight portion and a pair of legs, uniformly coating the staple body with a dielectric coating prior to formation into the bight portion and pair of legs, and forming the staple body into the bight portion and the pair of legs to form an integral unitary structure. The Examiner also maintains the rejection of claims 1-10 and 13-14 under 35 U.S.C. §103(a) as being unpatentable over Dennis '604 in view of Kish '405, and claims 11-12 as being unpatentable over Dennis '604 (in view of Kish '405) and further in view of Kish '373. The Examiner admits that Dennis does not disclose fasteners uniformly coated forming a unitary structure, but cites Kish '405 as teaching uniformly coated fasteners for forming a unitary structure.

The Examiner notes that Applicant contends that Kish '405 does not show or suggest uniformly coated fasteners, or fasteners that may be individually uniformly coated to form a unitary structure as between each individual fastener and the coating. The Examiner counters Applicant's contention by citing Figures 9-13 of Kish '405 where the process step of feeding individual and separated wires "12" to a coating station "14" is shown, and concludes that the fasteners are formed from a staple body or wire "12" being individually and uniformly coated, thereby forming a unitary structure as between each individual fastener and the coating.

The Examiner is respectfully requested to reconsider his position.

A key feature of the fasteners of the present invention as claimed is the unitary structure of fastener and coating created when the wires are coated. The term "unitary structure" indicates that the coating on each individual fastener is a complete and distinct unit. Accordingly, it does not interact mechanically or functionally with adjacent fasteners or the coatings thereon. Indeed, to create cores of cohered fasteners of the present invention, a separate gluing step must be employed. The coating itself is not employed in the cohering

process as in Kish '405 (and indeed may serve as an impediment thereto). As a result, when the instant fasteners are ultimately separated from the core during application, since the coating and individual fastener are unitary, each individual fastener maintains its uniform coating (that is, the separation occurs at the coating/glue interface; the adhesiveness of the *glue* (not the coating) is overcome to effectuate the separation). In contrast, since the coating in Kish is used to cohere the cores, each individual fastener separates from the core by overcoming the adhesiveness of the coating itself, and therefore the thickness of resulting coating on each fastener will vary from fastener to fastener. Kish thus teaches away from forming a unitary structure.

It is an express object of Kish to use the coating to cohere the fasteners together into cores. Thus, in Kish, the coating is partially cured in such a way that allows the coating to flow about the exterior surfaces of the wires and adhere the wires together into a continuous band (core). Accordingly, an integral unitary structure is not formed between each individual fastener and its coating. Instead, a unitary coated band of many coated fasteners is formed.

The passages cited by the Examiner do not teach otherwise. Applicants agree that Figures 9-13 of Kish show individual and separated wires 12 being fed to a coating station 14 where the staple bodies are individually coated. However, Kish teaches in reference to Figure 13 that the wires are formed into bands by merging rollers, and that, during use, the merging rollers can accumulate excess coating on their surfaces. Such excess coating and the concomitant need to remove it with a scraper blade 64 would not be present were the coating already fully cured. Instead, the coating is not yet fully cured and is used to adhere the wires together. See column 5, lines 50-57:


“After heating, the wires 12 are conveyed into the cooling chamber 20 where they preferably are water cooled, but curing with air or any other gas can be provided. When the wires 12, which are arranged substantially parallel in successive side-by-side engagement, are adhered together laterally by the coating alone to form a continuous band of wires as illustrated in FIG. 3.” (Emphasis added.)

Accordingly, an integral unitary structure is not and cannot be formed by Kish. Kish teaches away from doing so by using the coating alone to adhere the wires together.

In the event the Examiner maintains the rejections, Applicants respectfully request that the Examiner expressly point out how the art of record teaches individual, unitary coated fasteners as required by the instant claims.

Reconsideration and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,

  
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